

AMENDED IN SENATE MAY 1, 2006

SENATE BILL

No. 1160

Introduced by Senator Cedillo

January 10, 2006

An act *to amend Section 40000.11 of*, to amend, repeal, and add ~~Section 12801.5 of~~, *Sections 12801.5 and 14610.7 of*, to add Sections 1653.6 and 12801.1 to, *and* to add and repeal Section 12801.9 of, ~~and to repeal Section 14610.7 of~~, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1160, as amended, Cedillo. Vehicles: driver's license.

(1) Existing law requires the Department of Motor Vehicles (hereafter the department), upon proper application, to issue driver's licenses and identification cards.

This bill would require the department, in the issuance of driver's licenses and identification cards, to issue licenses and cards that are in compliance with specified requirements of the federal Real ID Act of 2005 (Public Law 109-13).

~~The bill, after notice of the adoption of final regulations implementing the federal Real ID Act of 2005 is published in the Federal Register, but no later than May 12, 2008,~~ would require the department to issue driver's licenses that permit driving and are acceptable by a federal agency for any official purpose, as certified by the federal Secretary of Homeland Security, to those applicants who are in compliance with specified requirements of specified provisions of the federal act, *no later than 240 days after the Secretary of Homeland Security approves the state's implementation plan.*

The bill would also require the department, in compliance with the federal act, and no later than 240 days after the ~~above-described notice~~

~~is published in the Federal Register~~ *Secretary of Homeland Security approves the state's implementation plan*, to issue driver's licenses that permit driving, and are not acceptable by a federal agency for federal identification or for any other official purpose, to those applicants who do not provide valid documentary evidence of lawful status under the federal act.

(2) Existing law requires the department to require every applicant for an original driver's license or identification card to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law and prohibits the department from issuing a license or card to a person who does not do so. Existing law requires the department to adopt regulations, including procedures for verifying citizenship or legal residency of applicants for driver's licenses and identification cards, and to make a specified report, annually.

This bill would repeal those requirements on the date that the Secretary of State receives a notice from the Director of Motor Vehicles indicating that the department is in compliance with the implementation of the federal Real ID Act of 2005 and on that date would prohibit a peace officer from detaining or arresting a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe that the person is under the age of 16 years.

This bill would, however, until the date of receipt by the Secretary of State of the notice, described above, require the department to accept an original notice of action document that contains a valid application verification number and is issued by a regional service center of the federal Citizenship and Immigration Service (CIS) of the United States Department of Homeland Security, as proof that the driver's license applicant's presence in the United States is authorized under federal law.~~[PU-RN20052017904]~~

The bill would require the department to use the Case Status Service Online Internet Web site of the CIS, or any other verification mechanism deemed acceptable by the CIS and the department, to verify an applicant's pending status.~~[PU-RN20052017904]~~

The bill would require a driver's license issued to a person eligible under these provisions to be for a limited term of ~~30~~ 18 months. The bill would require the department to renew the license for consecutive one-year periods until the date the department determines that the CIS has taken a final action on the applicant's legal residency application,

or until the department has implemented the provisions of the federal Real ID Act of 2005, whichever date occurs first.~~[PU RN20052017904]~~

The bill would require the department to commence implementation of the provisions relating to acceptance of CIS documents as proof of an applicant's lawful presence on or before March 1, 2007.~~[PU RN20052017904]~~

(3) Existing law makes it a misdemeanor for any person to knowingly assist in obtaining a driver's license or identification card for any person whose presence in the United States is not authorized under federal law.

This bill would ~~delete~~ repeal that provision, and, instead, would make it a misdemeanor to knowingly assist in obtaining documents for another person in violation of the federal Real ID Act of 2005. These changes would become operative on the date of receipt by the Secretary of State of the notice described above in paragraph (2).

Because this bill would create a new crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(4)~~

(5) The bill would provide that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as
- 2 the California Real ID Act of 2006.
- 3 SEC. 2. The Legislature intends by the enactment of this act
- 4 to accomplish the following:
- 5 (a) Meet or exceed the document and issuance standards set
- 6 forth in the federal Real ID Act of 2005 (Public Law 109-13), to
- 7 ensure that California has a federally recognized and acceptable
- 8 driver's license and identification card.

(b) Provide driver's licenses that permit driving, but cannot be used for federal identification purposes, consistent with the federal Real ID Act of 2005, to California drivers that cannot meet the minimum identity confirmation requirements necessary to obtain a federally recognized driver's license or identification card.

SEC. 3. Section 1653.6 is added to the Vehicle Code, to read:

1653.6. In the issuance of driver's licenses and identification cards under this code, the department shall issue driver's licenses and identification cards that are in compliance with Section 202 of Title II of the federal Real ID Act of 2005 (Public Law 109-13).

SEC. 4. Section 12801.1 is added to the Vehicle Code, to read:

~~12801.1. (a) After the notice of adoption of the final regulations implementing the federal Real ID Act of 2005 (Public Law 109-13) is published in the Federal Register, but no later than May 12, 2008~~

12801.1. (a) No later than 240 days after the Secretary of Homeland Security approves the state's implementation plan, the department shall issue driver's licenses that permit driving and are acceptable by a federal agency for any official purpose, as certified by the Secretary of Homeland Security, to those applicants who are in compliance with the requirements of Section 202 of Title II of the federal Real ID Act of 2005.

(b) The department, in compliance with the federal Real ID Act of 2005, and no later than 240 days after the notice described in subdivision (a) is published in the Federal Register, shall issue *Secretary of Homeland Security approves the state's implementation plan, shall issue* driver's licenses that permit driving, and are not acceptable by a federal agency for federal identification or for any other official purpose pursuant to paragraph (11) of subsection (d) of Section 202 of Title II of the federal act, to those applicants who do not meet the requirements of subparagraph (B) of paragraph (2) of subsection (c) of Section 202 of that federal act.

SEC. 5. Section 12801.5 of the Vehicle Code is amended to read:

12801.5. (a) Notwithstanding any other provision of law, the department shall require an applicant for an original driver's

1 license or identification card to submit satisfactory proof that the
2 applicant's presence in the United States is authorized under
3 federal law.

4 (b) The department shall not issue an original driver's license
5 or identification card to a person who does not submit
6 satisfactory proof that the applicant's presence in the United
7 States is authorized under federal law.

8 (c) The department shall adopt regulations to carry out the
9 purposes of this section, including procedures for, but not limited
10 to, (1) verifying that the applicant's presence in the United States
11 is authorized under federal law, (2) issuance of a temporary
12 license pending verification of the applicant's status, and (3)
13 appeal hearings from a denial of a license, temporary license, or
14 identification card.

15 (d) On January 10 of each year, the department shall submit a
16 supplemental budget report to the Governor and the Legislature
17 detailing the costs of verifying the citizenship or legal residency
18 of applicants for driver's licenses and identification cards, in
19 order for the state to request reimbursement from the federal
20 government.

21 (e) Notwithstanding Section 40300 or any other provision of
22 law, a peace officer may not detain or arrest a person solely on
23 the belief that the person is an unlicensed driver, unless the
24 officer has reasonable cause to believe the person driving is
25 under the age of 16 years.

26 (f) The inability to obtain a driver's license pursuant to this
27 section does not abrogate or diminish in any respect the legal
28 requirement of every driver in this state to obey the motor vehicle
29 laws of this state, including laws with respect to licensing, motor
30 vehicle registration, and financial responsibility.

31 (g) (1) The director shall determine the date that the
32 department is in compliance with the implementation of the
33 federal Real ID Act of 2005 (Public Law 109-13).

34 (2) The director shall submit a notice of the determination
35 under paragraph (1) to the Secretary of State, and on the date of
36 the receipt of that notice by the Secretary of State, this section is
37 repealed.

38 SEC. 6. Section 12801.5 is added to the Vehicle Code, to
39 read:

1 12801.5. (a) Notwithstanding any other provision of law, a
2 peace officer shall not detain or arrest a person solely on the
3 belief that the person is an unlicensed driver, unless the officer
4 has reasonable cause to believe that the person driving is under
5 the age of 16 years.

6 (b) The inability to obtain a driver's license pursuant to this
7 code does not abrogate or diminish in any respect the legal
8 requirement of a driver in this state to obey the motor vehicle
9 laws of this state, including laws with respect to licensing, motor
10 vehicle registration, and financial responsibility.

11 (c) This section shall become operative upon the receipt by the
12 Secretary of State of the notice specified in paragraph (2) of
13 subdivision (g) of Section 12801.5, as amended by Section 5 of
14 the act that added this section.

15 SEC. 7. Section 12801.9 is added to the Vehicle Code, to
16 read:

17 12801.9. (a) The Legislature hereby finds and declares all of
18 the following:

19 (1) There are residents of California who have applied to the
20 federal Citizenship and Immigration Service (CIS) of the United
21 States Department of Homeland Security for legal residency and
22 have had their applications accepted by the CIS for processing.

23 (2) The persons described in paragraph (1), who have made
24 themselves known to the federal government and have had their
25 applications for adjustment of status accepted by the CIS for
26 processing, are not deportable based on their immigration status.

27 (3) Persons with pending applications for adjustment of status
28 are issued application verification numbers on their notice of
29 action document by the CIS. These application verification
30 numbers are unique to each individual and can be verified
31 through the Case Status Service Online Internet Web site of the
32 CIS.

33 (4) California does not issue a driver's license to persons with
34 pending applications for adjustment of status. However, under
35 the federal Real ID Act of 2005 (Public Law 109-13), a
36 temporary driver's license issued to a person with a pending
37 application for adjustment of status would be accepted for
38 official purposes under that federal act.

39 (b) For purposes of Section 12801.5, the department shall
40 accept an original notice of action document that contains a valid

1 application verification number and is issued by a regional
2 service center of the CIS, as proof that the driver's license
3 applicant's presence in the United States is authorized under
4 federal law.

5 (c) The department shall use the Case Status Service Online
6 Internet Web site of the CIS, or any other verification mechanism
7 deemed acceptable by the CIS and the department, to verify an
8 applicant's pending status.

9 (d) A driver's license issued to a person eligible under this
10 section shall be for a limited term of ~~30~~ 18 months. The
11 department shall renew the license for consecutive one-year
12 periods until the date the department determines that the CIS has
13 taken a final action on the applicant's legal residency application,
14 or until the department has implemented the provisions of the
15 federal Real ID Act of 2005, whichever date occurs first.

16 (e) The department shall commence implementation of this
17 section on or before March 1, 2007.

18 (f) This section is repealed on the date that the Secretary of
19 State receives the notice described in paragraph (2) of
20 subdivision (g) of Section 12081.5, as amended by Section 5 of
21 the act that added this section.

22 ~~SEC. 8. Section 14610.7 of the Vehicle Code is repealed.~~

23 SEC. 8. *Section 14610.7 of the Vehicle Code is amended to*
24 *read:*

25 14610.7. (a) It is a misdemeanor for ~~any~~ a person to
26 knowingly assist in obtaining a driver's license or identification
27 card for ~~any~~ a person whose presence in the United States is not
28 authorized under federal law.

29 (b) *This section is repealed on the date that the Secretary of*
30 *State receives the notice described in paragraph (2) of*
31 *subdivision (g) of Section 12081.5, as amended by Section 5 of*
32 *the act that amended this section. The repeal of this section shall*
33 *not be construed to forgive or legalize conduct prohibited by this*
34 *section that was committed prior to the repeal date.*

35 SEC. 9. *Section 14610.7 is added to the Vehicle Code, to*
36 *read:*

37 14610.7. (a) (1) *A person shall not knowingly assist in*
38 *obtaining a driver's license, identification card, or any other*
39 *document for another person in violation of Section 202 of Title*
40 *II of the federal Real ID Act of 2005 (Public Law 109-13).*

1 (2) *A violation of paragraph (1) is a misdemeanor.*

2 (b) *This section is cumulative and shall not be construed as*
3 *restricting the application of any other law. However, an act or*
4 *omission punishable differently by this section and another*
5 *section of this code or any other code shall not be punished*
6 *under more than one of those sections.*

7 (c) *This section shall become operative upon the receipt by the*
8 *California Secretary of State of the notice specified in paragraph*
9 *(2) of subdivision (g) of Section 12801.5, as amended by Section*
10 *5 of the act that added this section.*

11 SEC. 10. *Section 40000.11 of the Vehicle Code is amended to*
12 *read:*

13 40000.11. A violation of ~~any of the following provisions~~ is a
14 misdemeanor, and not an infraction:

15 (a) Division 5 (commencing with Section 11100), relating to
16 occupational licensing and business regulations.

17 (b) Section 12500, subdivision (a), relating to unlicensed
18 drivers.

19 (c) Section 12515, subdivision (b), relating to persons under
20 21 years of age driving, and the employment of those persons to
21 drive, vehicles engaged in interstate commerce or transporting
22 hazardous substances or wastes.

23 (d) Section 12517, relating to a special driver's certificate to
24 operate a schoolbus or school pupil activity bus.

25 (e) Section 12519, subdivision (a), relating to a special
26 driver's certificate to operate a farm labor vehicle.

27 (f) Section 12520, relating to a special driver's certificate to
28 operate a tow truck.

29 (g) Section 12804, subdivision (d), relating to medical
30 certificates.

31 (h) Section 12951, subdivision (b), relating to refusal to
32 display a license.

33 (i) Section 13004, relating to unlawful use of an identification
34 card.

35 (j) Section 13004.1, relating to identification documents.

36 (k) Sections 14601, 14601.1, 14601.2, and 14601.5, relating to
37 driving with a suspended or revoked driver's license.

38 (l) Section 14604, relating to unlawful use of a vehicle.

39 (m) Section 14610, relating to unlawful use of a driver's
40 license.

1 (n) Section 14610.1, relating to identification documents.

2 (o) *Section 14610.7 relating to assisting in the unlawful*
3 *attainment of identification documents.*

4 ~~(p)~~

5 (p) Section 15501, relating to use of false or fraudulent license
6 by a minor.

7 *SEC. 11. No reimbursement is required by this act pursuant*
8 *to Section 6 of Article XIII B of the California Constitution*
9 *because the only costs that may be incurred by a local agency or*
10 *school district will be incurred because this act creates a new*
11 *crime or infraction, eliminates a crime or infraction, or changes*
12 *the penalty for a crime or infraction, within the meaning of*
13 *Section 17556 of the Government Code, or changes the definition*
14 *of a crime within the meaning of Section 6 of Article XIII B of the*
15 *California Constitution.*

16 ~~SEC. 9.~~

17 *SEC. 12.* The provisions of this act are severable. If any
18 provision of this act or its application is held invalid, that
19 invalidity shall not affect other provisions or applications that can
20 be given effect without the invalid provision or application.